



Labor Relations

Module 5

*National Guard
Technician Personnel Management
Course*

BARGAINING UNIT

EXCLUSIONS

5 USC 7112(b)

- Supervisory/Management Officials
- Personnelists (non-clerical)
- Assistants to general labor relations policy officials
- Employees engaged in work affecting national security
- Employees who perform agency investigative or audit activities
- Professional employees in a mixed pro/non-pro unit



DEFINITION OF A **SUPERVISOR**

5 USC 7103

A supervisor is a person who is authorized, with respect to employees, to do or recommend at least one of the following:

- hire
- transfer
- assign
- recall
- discipline
- promote
- furlough
- remove
- lay-off
- direct employees
- suspend
- reward
- adjust grievances

DUTY TO BARGAIN

Personnel Policies

- Merit Promotion/Hiring & Reduction In Force (RIF)/Furlough Procedures

Personnel Practices & Working Conditions

- Parking assignments; picnics; employee lockers; location of coffee makers and microwave ovens; office space/design; type and placement of office furniture, etc

NON-NEGOTIABLE **MANAGEMENT RIGHTS**

5 USC 7106(a)

- Determine mission, budget, organization, employee numbers and internal security
- Hire, direct, lay-off and retain employees
- Suspend, remove, reduce (grade/pay) or discipline employees



NON-NEGOTIABLE **MANAGEMENT RIGHTS**

5 USC 7106(a)

- Assign work, contract out and determine which personnel will perform operations
- Select and appoint employees
- Take necessary emergency actions



MANAGEMENT

UNFAIR LABOR PRACTICES

under 5 USC 7116(a)

- Interference, restraint or coercion of an employee in the exercise of assured rights
- Encourage or discourage membership in a labor organization by discrimination with respect to conditions of employment
- Sponsor, control or otherwise assist a labor organization



MANAGEMENT

UNFAIR LABOR PRACTICES

under 5 USC 7116(a)

- Discipline or discriminate against an employee because the employee has filed a complaint or given testimony under 5 USC 7116
- Refuse to consult/negotiate
- Fail to cooperate in impasse procedures
- Enforce rules or regulations in conflict with a prior collective bargaining agreement

WHAT IS A FORMAL DISCUSSION?

Under 5 USC 7114(2)(A)

A discussion which is...

- formal in nature,
- between one or more representatives of the agency AND one or more bargaining unit employees or representative, **AND**
- related to any grievance or any personnel policy or practices or other general conditions of employment



MANAGEMENT

OBLIGATIONS

5 USC 7117(d)(2)

- Notify the appropriate union representative of the meeting
- Afford union the opportunity to select its representative and to attend
- Allow the union representative to actively participate at the meeting

THERE IS NO FORMAL DISCUSSION WHEN/IF...

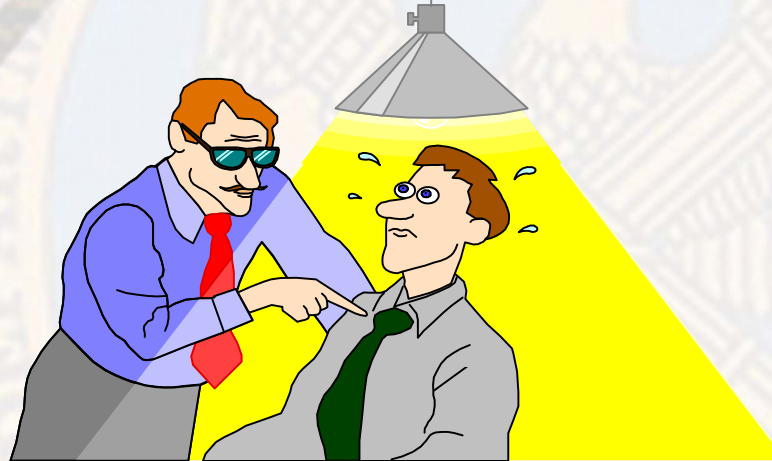
Discussion is about and with an individual employee related to his/her:

- Personal problems
- Job performance
- Performance evaluation
- Oral reply to proposed disciplinary action(s)

During impromptu meetings on the shop floor

UNION RIGHTS WHEN GRANTED EXCLUSIVE RECOGNITION

5 USC 7114



**Investigating Interviews
THE WEINGARTEN RIGHT
(5 USC 7114(a)(2)(B))**

UNION RIGHTS WHEN GRANTED EXCLUSIVE RECOGNITION

5 USC 7114

- May negotiate agreements for all employees in the collective bargaining unit
- Responsible for representing the interests of all bargaining unit employees –member or NOT
- Must be given the opportunity to be represented at all formal management-employee discussion concerning grievances or other negotiable issues

UNION RIGHTS WHEN GRANTED EXCLUSIVE RECOGNITION

5 USC 7114

Must be given the opportunity to be present at any investigative examination of a unit employee, IF the employee...

- Reasonably believes the examination may result in disciplinary action,

AND

- Requests representation

USE OF OFFICIAL TIME

5 USC 7131

Internal union business shall be conducted during the non-duty hours of the employees concerned.

MUST approve for: Collective Bargaining
FLRA Proceedings

MAY approve for: Other representational
activities

MAY NOT approve for: Internal union business

PAST PRACTICE

5 USC 7117

Once the parties establish a practice it becomes a condition of employment and must be bargained

You do not have to bargain over the decision to change a practice which conflicts with law or a government-wide regulations

- Management is not free of the obligation to provide the union with advance notice of its intent to change what has been a condition of employment
- Management must also bargain on demand on bargain- able proposals which come back

Question

